

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1788-MLM-E TCEQ ID: RN102495421 CASE NO.: 31404
RESPONDENT NAME: Viridis Energy (Texas), LP

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Viridis Energy (Texas), LP, Landfill gas recovery facility, 3623 Wilson Road, Humble, Harris County</p> <p>TYPE OF OPERATION: Landfill gas recovery facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2505; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Luong Nguyen, Vice President, Viridis Energy (Texas), LP, 7500 San Felipe Street Suite 600, Houston, Texas 77063 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 23, 2006</p> <p>Date of NOE Relating to this Case: August 31, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. Four violations were documented.</p> <p>WASTE</p> <p>1) Failed to have at least one properly licensed individual who supervises or manages the operations at the landfill gas recovery Facility [30 TEX. ADMIN. CODE § 30.201(b)].</p> <p>2) Failed to comply with the Facility's permit and incorporated plans or other related documents associated with the permit and failure to notify the executive director with modifications to the landfill gas collection system design [30 TEX. ADMIN. CODE §§ 330.121(a) [formerly 30 TEX. ADMIN. CODE § 330.150(1) incorporating 30 TEX. ADMIN. CODE § 330.111(a)] and 305.70(j)(21)].</p> <p>3) Failed to provide adequate secondary containment for a hazardous waste tank [30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CODE OF FEDERAL REGULATIONS § 265.193(a)(1)].</p> <p>4) Failed to update the Facility's NOR [30 TEX. ADMIN. CODE § 335.6(c)].</p>	<p>Total Assessed: \$46,046</p> <p>Total Deferred: \$9,209 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$36,837</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Viridis Energy has implemented the following corrective measures at the Facility:</p> <p>a. On May 19, 2006, the Notice of Registration ("NOR") was amended to include the EPA Hazardous Waste Number for the Facility's 3,000 gallon capacity tank, which stores the Thermal Swing Absorption ("TSA") regenerate condensate waste streams 0001114H and 0002114I;</p> <p>b. On August 28, 2006, Unit 014 was specified on the NOR as the waste management unit for contaminated soil (waste stream 0003302H);</p> <p>c. On October 5, 2006, TCEQ issued a Class C MSW Operator license to a supervisor of the Facility;</p> <p>d. Adequate secondary containment for Tank 001 was provided on September 21, 2006; and</p> <p>e. Permit and plan modifications for the TSA regenerative filtration system and associated equipment were received by TCEQ on December 20, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

TCEQ

DATES	Assigned	5-Sep-2006	Screening	15-Sep-2006	EPA Due	
	PCW	29-Mar-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Viridis Energy (Texas), LP		
Reg. Ent. Ref. No.	RN102495421		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	31404	No. of Violations	4	
Docket No.	2006-1788-MLM-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Dana Shuler	
Multi-Media	Municipal Solid Waste	EC's Team	EnforcementTeam 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$100,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2% Enhancement Subtotals 2, 3, & 7 **\$2,002**

Notes The Respondent received one NOV for a dissimilar violation.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction Subtotal 5 **\$10,010**

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance by December 20, 2006.

Total EB Amounts **\$234** 0% Enhancement* Subtotal 6 **\$0**
Approx. Cost of Compliance **\$5,330** *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$92,092**

OTHER FACTORS AS JUSTICE MAY REQUIRE

-50%

Adjustment **-\$46,046**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommended reduction due to the length of time that elapsed between the investigation and referral of this case for enforcement.

Final Penalty Amount **\$46,046**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$46,046**

DEFERRAL

20%

Reduction Adjustment **-\$9,209**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$36,837**

Screening Date 15-Sep-2006

Docket No. 2006-1788-MLM-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 31404

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102495421

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent received one NOV for a dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 15-Sep-2006

Docket No. 2006-1788-MLM-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 31404

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102495421

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 30.201(b)

Violation Description

Failed to have at least one properly licensed individual who supervises or manages the operations at the landfill gas recovery Facility, as documented during an investigation conducted on January 23, 2006. Specifically, the supervisor of the solid waste operations did not have a Class A, B, C, or D municipal solid waste license.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 8

235 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$40,000

Eight monthly events are recommended from the January 23, 2006 investigation date to the September 15, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$18,400

This violation Final Assessed Penalty (adjusted for limits) \$18,400

Economic Benefit Worksheet

Respondent: Viridis Energy (Texas), LP
Case ID No. 31404
Reg. Ent. Reference No. RN102495421
Media: Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$525	23-Jan-2006	5-Oct-2006	0.7	\$18	n/a	\$18
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$105	23-Jan-2006	5-Oct-2006	0.7	\$4	n/a	\$4

Notes for DELAYED costs

Estimated training and licensing costs for a municipal solid waste license. Date required is the date of the investigation and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$630

TOTAL

\$22

Screening Date 15-Sep-2006

Docket No. 2006-1788-MLM-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 31404

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102495421

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 330.121(a) [formerly 30 Tex. Admin. Code § 330.150(1) incorporating 30 Tex. Admin. Code § 330.111(a)] and 305.70(j)(21)

Violation Description

Failure to comply with the Facility's permit and incorporated plans or other related documents associated with the permit and failure to notify the executive director of modifications to the landfill gas collection system design, as documented during an investigation conducted on January 23, 2006. Specifically, the Respondent built a Thermal Swing Absorption regenerative filtration system and associated equipment at the Facility, which is not included in the Facility's permit and incorporated plans, without first obtaining approval of a permit amendment/modification from the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 8

235 Number of violation days

mark only one
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$20,000

Eight monthly events are recommended from the January 23, 2006 investigation date to the September 15, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$113

Violation Final Penalty Total \$9,200

This violation Final Assessed Penalty (adjusted for limits) \$9,200

Economic Benefit Worksheet

Respondent: Viridis Energy (Texas), LP

Case ID No: 31404

Reg. Ent. Reference No: RN102495421

Media: Industrial and Hazardous Waste

Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	23-Jan-2006	20-Dec-2006	0.9	\$113	n/a	\$113

Notes for DELAYED costs:

Estimated cost to modify permits and all associated documents and plans and ensure that they are followed as operational requirements at the facility. Date required is the date of the investigation and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$113

Screening Date 15-Sep-2006

Docket No. 2006-1788-MLM-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 31404

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102495421

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(1)(B) and 40 Code of Federal Regulations § 265.193(a)(1)

Violation Description

Failed to provide adequate secondary containment for a hazardous waste tank, as documented during an investigation conducted on January 23, 2006. Specifically, adequate secondary containment was not provided for hazardous waste Tank 001 prior to placing it into service.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 8

235 Number of violation days

mark only one
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$40,000

Eight monthly events are recommended from the January 23, 2006 investigation date to the September 15, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$18,400

This violation Final Assessed Penalty (adjusted for limits) \$18,400

Economic Benefit Worksheet

Respondent Viridis Energy (Texas), LP

Case ID No. 31404

Reg. Ent. Reference No. RN102495421

Media Industrial and Hazardous Waste

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	23-Jan-2006	21-Sep-2006	0.7	\$4	\$88	\$92
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide adequate secondary containment for Tank 001, managing Hazardous Waste Stream 000114H. Date required is the date of the investigation and final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$92

Screening Date 15-Sep-2006

Docket No. 2006-1788-MLM-E

PCW

Respondent Viridis Energy (Texas), LP

Policy Revision 2 (September 2002)

Case ID No. 31404

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN102495421

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 335.6(c)

Violation Description

Failed to update the Facility's Notice of Registration ("NOR"), as documented during an investigation conducted on January 23, 2006. Specifically, the EPA Hazardous Waste Number was not included on the NOR for the 3,000 gallon capacity tank, which stores the Thermal Swing Absorption regenerate condensate waste streams 0001114H and 00021141. Also, the correct waste management unit for contaminated soil (waste stream 0003301H) should be added to the NOR or specified as "none at this time".

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

217 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$46

This violation Final Assessed Penalty (adjusted for limits) \$46

Economic Benefit Worksheet

Respondent Viridis Energy (Texas), LP
Case ID No. 31404
Reg. Ent. Reference No. RN102495421
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	23-Jan-2006	28-Aug-2006	0.6	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to update NOR. Date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator:	CN601281835	Viridis Energy (Texas), LP	Classification: AVERAGE	Rating: 2.16
Regulated Entity:	RN102495421	ATASCOCITA LFGTE FACILITY	Classification: AVERAGE	Site Rating: 2.25

ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX2716F
	AIR NEW SOURCE PERMITS	REGISTRATION	74012
	AIR NEW SOURCE PERMITS	PERMIT	44278
	AIR NEW SOURCE PERMITS	PERMIT	N032
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX973
	AIR NEW SOURCE PERMITS	AFS NUM	1567
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HX2716F
	AIR OPERATING PERMITS	PERMIT	2565
	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	48006
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87737

Location:	3623 WILSON RD, HUMBLE, TX, 77396	Rating Date: 9/1/2006 Repeat Violator: NO
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TCEQ Region:	REGION 12 - HOUSTON
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Date Compliance History Prepared:	December 08, 2006
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Agency Decision Requiring Compliance History:	Enforcement
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Compliance Period:	December 08, 2001 to December 08, 2006
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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:	<u>Dana Shuler</u>	Phone:	<u>(512) 239-2505</u>
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Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1. 02/06/2006 (453316)
2. 08/30/2006 (453940)
3. 01/20/2006 (439665)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/20/2006 (439665)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 101, SubChapter A 101.20(3)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov:

OP IA
 PERMIT IA

Description: Failure to calibrate instruments before and after monitoring. Category B19g(1)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)
Rqmt Prov: OP IA
Description: Failure to submit deviation reports no later than 30 days after the end of the reporting period.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
Rqmt Prov: OP IA
Description: Failure to submit Annual Compliance Certification no later than 30 days after the end of the certification period.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
VIRIDIS ENERGY (TEXAS), LP
RN102495421**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1788-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Viridis Energy (Texas), LP ("Viridis Energy") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Viridis Energy appear before the Commission and together stipulate that:

1. Viridis Energy owns and operates a landfill gas recovery facility at 3623 Wilson Road in Humble, Harris County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste and industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and Viridis Energy agree that the Commission has jurisdiction to enter this Agreed Order, and that Viridis Energy is subject to the Commission's jurisdiction.
4. Viridis Energy received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Viridis Energy of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Six Thousand Forty-Six Dollars (\$46,046) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Viridis Energy has paid Thirty-Six Thousand Eight Hundred Thirty-Seven Dollars (\$36,837) of

the administrative penalty and Nine Thousand Two Hundred Nine Dollars (\$9,209) is deferred contingent upon Viridis Energy's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Viridis Energy fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Viridis Energy to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Viridis Energy have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Viridis Energy has implemented the following corrective measures at the Facility:
 - a. On May 19, 2006, the Notice of Registration ("NOR") was amended to include the EPA Hazardous Waste Number for the Facility's 3,000 gallon capacity tank, which stores the Thermal Swing Absorption ("TSA") regenerate condensate waste streams 0001114H and 00021141;
 - b. On August 28, 2006, Unit 014 was specified on the NOR as the waste management unit for contaminated soil (waste stream 0003302H);
 - c. On October 5, 2006, TCEQ issued a Class C MSW Operator license to a supervisor of the Facility;
 - d. Adequate secondary containment for Tank 001 was provided on September 21, 2006; and
 - e. Permit and plan modifications for the TSA regenerative filtration system and associated equipment were received by TCEQ on December 20, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Viridis Energy has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Viridis Energy is alleged to have:

1. Failed to have at least one properly licensed individual who supervises or manages the operations at the landfill gas recovery Facility, in violation of 30 TEX. ADMIN. CODE § 30.201(b), as documented during an investigation conducted on January 23, 2006. Specifically, the supervisor of the solid waste operations did not have a Class A, B, C, or D municipal solid waste license.
2. Failed to comply with the Facility's permit and incorporated plans or other related documents associated with the permit and failure to notify the executive director with modifications to the landfill gas collection system design, in violation of 30 TEX. ADMIN. CODE §§ 330.121(a) [formerly 30 TEX. ADMIN. CODE § 330.150(1) incorporating 30 TEX. ADMIN. CODE § 330.111(a)] and 305.70(j)(21), as documented during an investigation conducted on January 23, 2006. Specifically, Viridis Energy built a TSA regenerative filtration system and associated equipment at the Facility, which is not included in the Facility's permit and incorporated plans, without first obtaining approval of a permit amendment/modification from the TCEQ.
3. Failed to provide adequate secondary containment for a hazardous waste tank, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(1)(B) and 40 CODE OF FEDERAL REGULATIONS § 265.193(a)(1), as documented during an investigation conducted on January 23, 2006. Specifically, adequate secondary containment was not provided for hazardous waste Tank 001 prior to placing it into service.
4. Failed to update the Facility's NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on January 23, 2006. Specifically, the EPA Hazardous Waste Number was not included on the NOR for the 3,000 gallon capacity tank, which stores the TSA regenerate condensate waste streams 0001114H and 00021141. Also, the correct waste management unit for contaminated soil (waste stream 0003301H) should be added to the NOR or specified as "none at this time".

III. DENIALS

Viridis Energy generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Viridis Energy pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Viridis Energy's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Viridis Energy (Texas), LP, Docket No. 2006-1788-MLM-E" to:

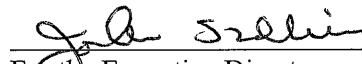
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Viridis Energy. Viridis Energy is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Viridis Energy in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Viridis Energy, or three days after the date on which the Commission mails notice of the Order to Viridis Energy, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/9/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3 April 2007
Date

LUONG NGUYEN

Name (Printed or typed)
Authorized Representative of
Viridis Energy (Texas), LP

VICE PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

